



NORTH CAROLINA

“We have never said that a local government does not have a legitimate role to play in cases of market failure where private industry is either unwilling or unable to stand up and provide services.”

Marcus Trathen
Counsel for TWC/NCCTA
Nov. 23, 2009

“Should a city pay into the E911 fund to support emergency services? Should a city pay into the telecommunications relay service to support calling for the hearing impaired? None of those things are things that are done now. We do them on the private side. But the cities providing these services do not.”

Mark Prak

Counsel for TWC/NCCTA

Nov. 23, 2009



CITY OF WILSON
WILSON, NORTH CAROLINA 27893
INCORPORATED 1849
OPERATING FUND

FIRST CITIZENS BANK & TRUST CO.
WILSON, N.C.

NO. **168750**

PROVISION FOR PAYMENT OF THIS CHECK
OR DRAFT HAS BEEN MADE BY AN
APPROPRIATION DULY MADE PURSUANT
TO THE LOCAL GOVERNMENT BUDGET
AND FISCAL CONTROL ACT.

VOID AFTER 90 DAYS

VENDOR NUMBER	DATE	CHECK NUMBER	NET AMOUNT
38246	10/02/2009	168750	\$*****3,942.62

PAY THREE THOUSAND NINE HUNDRED FORTY TWO AND 62/100 DOLLARS

TO THE
ORDER
OF

UNIVERSAL SERVICE ADMINISTRATIVE CO
1259 PAYSHERE CIRCLE
CHICAGO IL 60674-0000

COPY-0001
DIRECTOR OF FINANCE
****VOID****
CITY MANAGER



CITY OF WILSON
WILSON, NORTH CAROLINA 27893
INCORPORATED 1849
OPERATING FUND

FIRST CITIZENS BANK & TRUST CO.
WILSON, N.C.

NO. **169022**

PROVISION FOR PAYMENT OF THIS CHECK
OR DRAFT HAS BEEN MADE BY AN
APPROPRIATION DULY MADE PURSUANT
TO THE LOCAL GOVERNMENT BUDGET
AND FISCAL CONTROL ACT.

VOID AFTER 90 DAYS

VENDOR NUMBER	DATE	CHECK NUMBER	NET AMOUNT
38222	10/09/2009	169022	\$*****2,313.93

PAY

TWO THOUSAND THREE HUNDRED THIRTEEN AND 93/100 DOLLARS

TO THE
ORDER
OF

NC 911 BOARD
ATTN: MARSHA TAPLER
NC INFORMATION TECHNOLOGY SERVICES
P O BOX 17209
RALEIGH NC 27619-7209

COPY-0001
DIRECTOR OF FINANCE
****VOID****
CITY MANAGER

“Wilson signed an exclusive agreement to provide service to a new residential development outside the city limits. Wilson sought to exclude private companies from providing service in this same development. Private providers are prohibited by law from entering into exclusive access arrangements or excluding competitors from serving customers.”

Mark Prak

Nov. 23, 2009



The Honorable Bill Faison
NC House of Representatives
300 N. Salisbury Street, Room 611
Raleigh, NC 27603-5925

Representative Faison,

I am writing to you in your capacity as Chair of the House Select Committee on High Speed Internet Access in Rural and Urban Areas (Committee). Please share this letter with the other members of the Committee.

It has come to my attention that during the Committee's hearing on November 23, 2009, that misrepresentations were made to the Committee regarding one of the subdivisions that I am currently developing in Wilson County. Specifically, I am referring to the statements made by Mark Prak, of the Brooks Pierce law firm, representing the North Carolina Telecommunications Association. It is my understanding that the following statement was made in a manner that indicated it was a statement of fact:

"Wilson signed an exclusive agreement to provide service to a new residential development outside the city limits. Wilson sought to exclude private companies from providing service in this same development. Private providers are prohibited by law from entering into exclusive access arrangements or excluding competitors from serving customers."

In response to the above, I offer the following:

1. No agreement of any kind, much less an exclusive agreement to provide service, was ever executed between the City of Wilson and myself, or any other responsible party with authority to make decisions about the subdivision in question, SouthPointe.

Post Office Box 515
3301 Nash Street NW, Suite E
Wilson, NC 27894-0515
Phone: (252) 243-7700
Toll Free: 1-800-OURTOWN
Fax: (252) 237-6400

**Mike Eatmon,
Our Town Properties, Inc.**

“No agreement of any kind, much less an exclusive agreement to provide service, was ever executed between the City of Wilson and myself, or any other responsible party with authority to make decisions about the subdivision in question, SouthPointe.”

**Mike Eatmon,
Our Town Properties, Inc.**

“The requested extension of services was based on my initiative, and NOT requested by the City of Wilson. Also, it was my desire to limit the number of providers in the subdivision, NOT the City of Wilson.”

**Mike Eatmon,
Our Town Properties, Inc.**

“I am aware of several studies and articles that have concluded that having a fiber to the home network, that provides *true* high speed internet service, increases property values.”

**Mike Eatmon,
Our Town Properties, Inc.**

“Unfortunately, despite my clearly stated preference to exercise my individual rights to develop my property in the manner that I thought was most beneficial to me and the future owners of homes within the subdivision, Time Warner Cable has bullied their way onto my property by threatening me personally with legal action.”

**“Then they secure loans by
promising to raise taxes if
needed.”**

Mark Prak

Nov. 23, 2009

Memorandum

Date: December 7, 2009

To: Mr. Grant W. Goings
City Manager
City of Wilson, North Carolina

From: Ted Cole
Senior Vice President
Davenport & Company LLC

CC: Robert M. High
Senior Vice President
Davenport & Company LLC

Re: Fiber Optic Debt Issues

As Financial Advisor to the City of Wilson (the "City"), Davenport & Company LLC ("Davenport"), has been asked to clarify a few items related to the City's fiber optic system. Specifically, we have been asked to clarify the City's intent as it relates to the planned source(s) of revenue to be used to service the debt issued to fund the construction of the system.

Davenport has served the City in a financial advisory capacity since the spring of 2006 and as such, we are quite familiar with the City's due diligence and related efforts that preceded the issuance of the debt to fund the development of the fiber optic system. We are aware that the City had engaged the services of two separate feasibility consultants who were tasked with the duty to measure the fiber optic system's financial feasibility. Both studies found that the City's planned fiber optic system could be financially self-supporting from system revenues. This was a key consideration for City Staff as they moved through the project review process and was a critical requirement of their recommendation to City Council to proceed with the project.

Once the system's ability to operate on a self-supporting basis had been established and vetted, the City initiated steps to implement the construction of the system including the issuance of debt to fund the improvements.

One of the first steps that was taken to begin the debt issuance process was a pre-application meeting with the Staff of the Local Government Commission (the "LGC")

**Ted Cole, Senior Vice President
Davenport & Company LLC**

“The City was asked to measure the proposed fiber optic debt service in terms of equivalent pennies on the City’s real estate tax rate and in terms of an equivalent rate increase on electric service. As requested, these financial benchmarks were provided as part of the City’s LGC application...”

**Ted Cole, Senior Vice President
Davenport & Company LLC**

“As a point of reference, it is worth noting that the LGC Staff routinely requests this sort of benchmark information if a government unit is planning to issue debt with a stated reliance on projected revenues for debt service payments that cannot be substantiated with sufficient actual historic data.”

“What right does a city’s customer have? Can a telephone customer complain to the Utilities Commission if they have a problem with the city’s telephone service provider? Is the city subject to the North Carolina Utilities Commission’s reporting requirements with respect to its telephone service?”

Mark Prak

Nov. 23, 2009

**“We already believe we are the best.
We’ve got excellent, excellent
service, excellent facilities.”**

Mark Prak

Nov. 23, 2009

41st



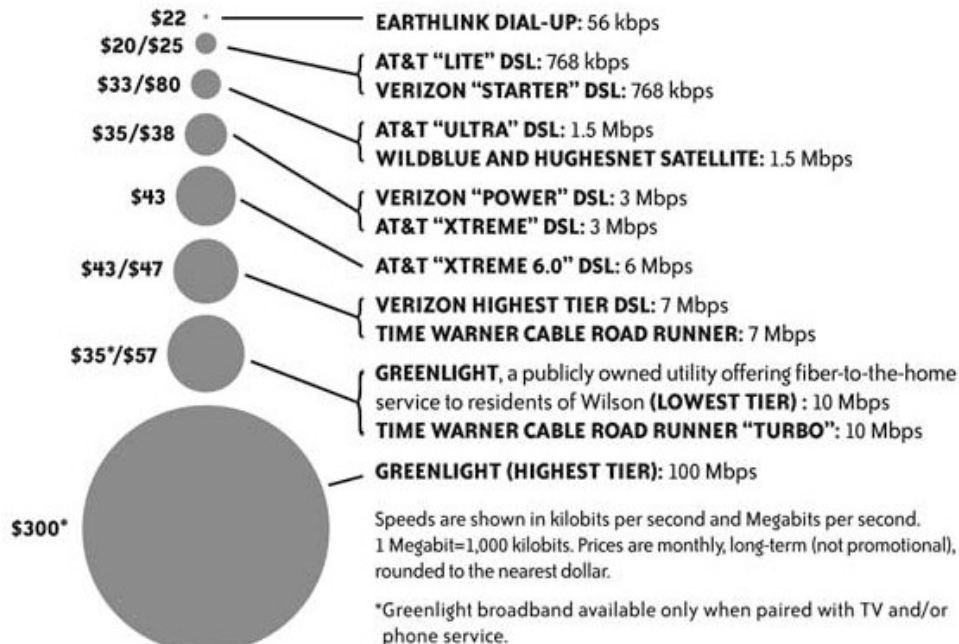
**North Carolina
Can Do Better**

Time Warner and Embarq can't compete with city-owned ISP, trying to outlaw it

by Nilay Patel, posted Apr 22nd 2009 at 7:03PM

WHAT YOU PAY, WHAT YOU GET

A comparison of Internet download speeds available to residential customers in the Triangle



Man, Time Warner Cable -- you are some shady players. Hot on the heels of the ISP's decision to [withdraw DOCSIS 3.0 trials](#) from areas that have [rejected its tiered billing plan](#), we're hearing that TWC's teamed up with Embarq to persuade the North Carolina state government into banning community-owned broadband services. Why? Well, turns out the 47,000 residents of Wilson, NC got tired of paying for slow broadband, so the city government launched its own fiber ISP called Greenlight that offers some pretty solid packages ranging from \$99 for 81 cable channels, unlimited phone service, and 10Mbps (down *and* up) internet to \$170 for every single channel including premiums and 20Mbps up/down internet. (There's even a "secret" 100Mbps up/down internet plan.) Of course, these prices blow TWC and Embarq out of the water -- the comparable basic Time Warner plan has fewer channels and less bandwidth for an "introductory rate" of \$137 -- and rather than compete, the two giants decided to lobby the North Carolina state government to pass a bill that would outlaw community-owned ISPs like Greenlight. The reason for this is that the two companies are

Pole attachments

Adjusted to \$15 in 2007

When were they last adjusted?



Gran Fury • allpar.com

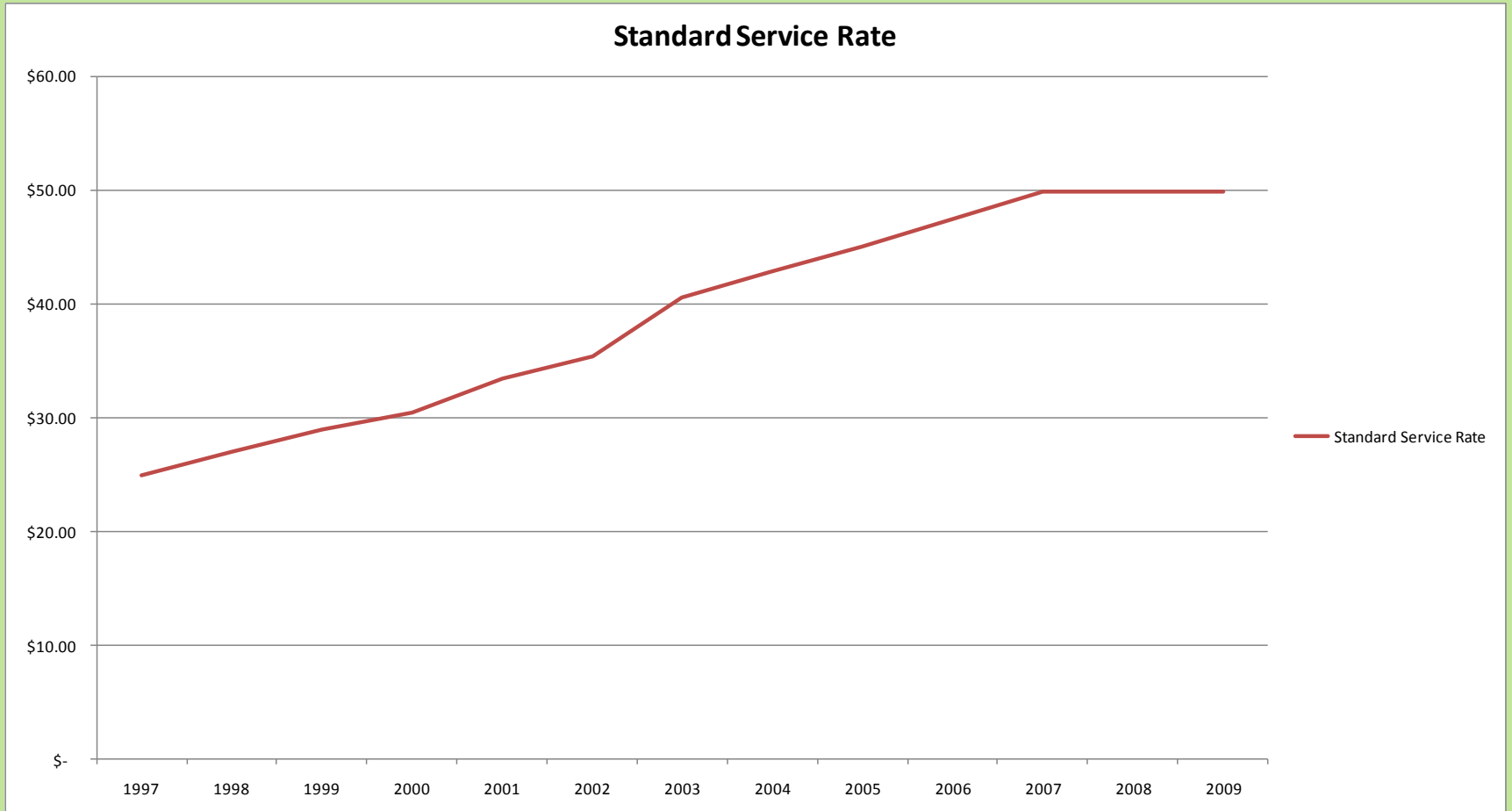
1975

Pole Attachments

- 1975 = \$5
- 2007 = \$15
- \$5 in 1975 adjusted for inflation over 32 years = \$20.09

Time Warner Cable

Standard Service Rate – 1997-2009



**“If every mayor of every town
wants to drive a Ferrari, I’m
sure they could.”**

Mark Prak

Nov. 23, 2009



41st



**North Carolina
Can Do Better**